

**Washington State Human Rights Commission
MEETING OF
April 27, 2006**

**First Congregational Church, Main Hall
Bellingham, WA**

MINUTES

ATTENDENCE

Commissioners: Kathy Baros Friedt, Commission Chair; Ellis Casson; Deborah Sioux Cano-Lee; and Jerry Hebert

Staff: Marc Brenman, Executive Director; Tanya Calahan, Executive Assistant to the Commissioners; and Traci Friedl, Assistant Attorney General.

Guests: Rosalinda Guillen and Mike Betz, Coalition for Professional Law & Border Enforcement; Andres Ortiz & Diana Christiansen, Legal Observer Program; Bill Elfo, Whatcom County Sheriff; Uriel Iniguez, WA State Commission on Hispanic Affairs; Carl Shook, Julia Campos; J. David Cahn; and Aline Soundy, Community to Community Development; Lenny Dixon, Lummi Nation; Paul De Armond, Historical Researcher; Larry Estrada, Western Washington University; Barbara Rofkar, Whatcom Human Rights Task Force; Monte Koreis; Larry Hildes and Karen Weill, National Lawyers Guild; Robert Astyk; Paul Schwartz; David Doll, Bellingham Police Department; Barbara Brenner, Whatcom County Council; Walt De Kraai and Frank W. Mullick, VFW; Joan Carson; Diane M. Ford; Tim Marteny; Melissa Marteny; Barbara Ryan, Bellingham City Council; Bob Mark; Joan S. Frank Nugent; Robert Attaway; Bradley Growner; Bern Haggerty; Nancy Ging; Abe Jacobson; Jim Dotinga; Chris Simcox; Minutemen Civil Defense Corp; Sierra Schraff-Thomas and Charysa Beeman-Varela M.E.Ch.A de WWU; Debi Covert; Christ the Servant Lutheran Church; Paul Moore; Paul Ridley, Minutemen Logistics Volunteer; Ian Morgan; Luis Moscoso, WA Democratic Party; Eric Radison; Billy Munoz; Frank Dare; and Charles Law. Over 70 individuals signed up to speak. About 200 individuals attended the forum. TVW, KVOS, and The Bellingham Herald provided media coverage.

(Audio tape one – side one)

OPENING AND WELCOME

Commissioner Baros Friedt called the meeting to order at 7:05 p.m. Commissioners and Executive Director Marc Brenman introduced themselves to the audience.

Commissioner Baros Friedt explained that the agenda was rearranged to follow the WSHRC's usual format for public forums.

Executive Director Marc Brenman then provided an overview of the jurisdiction of the Washington State Human Rights Commission (WSHRC), including the newly expanded jurisdiction to investigate complaints based on sexual orientation.

INTRODUCTION TO COMMUNITY ISSUES

There were several scheduled presenters on the agenda who either contacted the WSHRC directly or principal forum organizer Rosalinda Guillen. Those individuals spoke first. Others from the audience, who wanted to speak, were asked to sign in and were allowed to speak in order as time permitted.

Researcher Paul de Armond gave a historical overview of minuteman activities in the United States and locally in Bellingham.

The next speaker, Barbara Rofkar spoke on behalf of the Whatcom Human Rights Task Force (WHRTF). She highlighted the work of WHRTF, which includes addressing hate crimes and community issues involving the Aryan Nation and Neo Nazis. She spoke about racist letters that students of color received and efforts to address them. WHRTF works with the Ferndale Diversity Coalition on internship programs and workshops.

Barbara Ryan of the Bellingham City Council spoke about Bellingham residents' efforts to come together as a community to address problems. She read parts of the City's resolution against militia activities. She commented about the City's desire to not have threats at the border. They track shoppers from Canada and are not pleased with self appointed border law enforcement.

Whatcom County Sheriff Bill Elfo spoke about what the Sheriff's office is doing to track minutemen activity. He relayed the minutemen's stated purpose which is to monitor the border. He spoke about their First Amendment rights. As far as they know, there have been no illegal activities by the minutemen. He shared that residents with complaints about minutemen activity can come to him with their concerns. He commented that the FBI are the experts in this area and they have not provided anything of concern to the Sheriff's Department regarding the minutemen. Also, he shared that the Sheriff's Department doesn't report immigrants who are crime victims to immigration officials. They do not check the immigration status of those that report crimes.

Commissioner Hebert asked Sheriff Elfo about a community perception of police profiling by the Whatcom County Sheriff's Department and how Sheriff Elfo addresses those concerns. The Sheriff's Department addresses these complaints when received and take them seriously; although they receive very few.

David Doll of the Bellingham Police Department spoke on behalf of Chief Randy Carroll. Chief Carroll could not attend the forum because of a schedule conflict.

Lt. Doll read a statement on behalf of Chief Carroll. He commented about immigration law and that the Bellingham Police Department does not target immigrants and does not enforce federal immigration law. Bellingham Police Department uses Immigration and Nationalization Services staff for translation services.

(Audio tape one – side two)

Uriel Iniguez of the WA Commission on Hispanic Affairs spoke about his life as an immigrant and other immigrants who come to the US to seek a better life and to work for a living.

Commissioner Hebert asked about immigrants and undocumented workers' use of social services. Those numbers may be lower than commonly believed.

Larry Estrada of Western Washington University spoke about the history of the "Brown Peril." He commented about the repeat of history. In the 1920's the Polish, Catholic, Irish, and Italians faced similar problems to immigrants of today. He stated that immigrants have become the "scapegoat." Many immigrants do not use social services but desire to work. He commented about Chris Simcox and the Minuteman Civil Defense Corps' political and racist beliefs and how they target Hispanics for discrimination.

Carl Shook of Community to Community Development shared his concerns about minutemen activities and how they target immigrants.

Lenny Dixon of the Lummi Tribe also spoke about his tribe and community activities.

Luis Moscoso of the WA State Democratic Party shared his belief that the immigration issue is being used as a "wedge" point in the upcoming election. He commented that individuals are forced to come to the US to seek a better life so focus should be placed on international trade agreements to build up opportunities for individuals in their home countries.

Andres Ortiz spoke about the Legal Observer's program in Bellingham. In April 2006, they had 80 volunteers. They came together to observe minutemen activities along the border.

OPEN FORUM

Many individuals from the audience signed up to speak.

Many speakers shared concerns about immigration issues and minutemen activities as self appointed border patrol. One speaker, Diana Christiansen of the Legal Observer, lives in Blaine, Washington. She stated that the minutemen presence does not make her feel safe rather she feels intimidated. Law enforcement is already in place.

Another individual named Elaine shared that she comes from a war torn country and that she feels the same fear that she felt in that country because of the focus on immigrants.

Rosalinda Guillen thanked WSHRC for sponsoring a public forum in Bellingham. She commented that immigration is a complex emotional issue and the community must address it together. She encouraged all involved to look at the real numbers and expressed her hope that the discussion would not end after the forum. She welcomed the minutemen and encouraged all sides to discuss issues openly. She also commented that the minutemen's focus on immigrants and border enforcement detracts from bigger problems in the US.

(Audio tape two – side one)

Dennis Lane of the Whatcom Human Rights Task Force reiterated points about immigration reform, hate and activities of minutemen.

Monte Koreis spoke about Blogs ("weblogs" or journals) of the minutemen that contain racist talk and a lot of discussion about the use of weapons. Individuals expressed concern about hate groups looking at the contents of these blogs.

Paul Schwartz commented that the evening's discussion has been one-sided. He stated that he respects immigration but was against illegal immigration. People should follow the rule of law and "get in line and take a number" if they want to enter the US.

Barbara Brenner of the Bellingham County Council commented that she hasn't seen anything racist or bigoted by the minutemen. She was opposed to the City of Bellingham's resolution on minutemen so she didn't sign it. She's unfamiliar with their agenda.

(Audio tape two – side two)

Other individuals shared their thoughts about the immigration and minutemen issue. Walt De Kraai spoke about inequity for veterans. He stated that veterans receive \$25 million from the government whereas non-citizens receive \$700 million.

Chris Simcox of the Minutemen Civil Defense Corp spoke. Mr. Simcox explained the work of his group. They are an immigrant watch group. They watch the border and then report "suspicious" activities to border law enforcement. He stated that he has biracial children and Hispanic nieces and nephews and that the negative racist portrayal of him and his group is a product of clever editing. He commented that he was misquoted and did not say that illegal immigrants should be "shot on site" but rather he said that "drug dealers" should be. He then spoke about First Amendment rights.

Frank Dare spoke about his pride of being an American and a veteran. He encouraged people to learn more about what the minutemen are doing.

A few other individuals shared similar sentiments regarding the minutemen and immigration issue.

The Commissioners and Marc Brenman gave closing comments. They thanked the First Congregational Church for providing the facility for the forum. They also thanked members of the community for inviting the WSHRC to Bellingham to participate to share information with them.

There being no further business, the meeting adjourned at 10:45 p.m.

Respectfully submitted,

Tanya Y. Calahan
Executive Assistant to the Commissioners

Friday, April 28, 2006
Whatcom County Courthouse

ATTENDANCE

Commissioners: Kathy Baros Friedt, Commission Chair; Ellis Casson; Deborah Sioux Cano-Lee; and Jerry Hebert. A quorum was present.

Staff: Marc Brenman, Executive Director; Tanya Calahan, Executive Assistant to the Commissioners; and Traci Friedl, Assistant Attorney General.

Guests: John Stark, Bellingham Herald.

OPENING AND WELCOME

(Audio tape one – side one)

Commissioner Baros Friedt called the meeting to order at 9:25 a.m.

APPROVAL OF MINUTES

The Commissioners considered the minutes of the March 31, 2006 meeting. A correction to page nine was noted. The language should be clarified to reflect that it is voluntary if the Commissioners want to share their individual input on the Executive Director's evaluation with the other Commissioners. Commissioner Casson then made a motion to approve the minutes with the noted correction. Commissioner Cano-Lee seconded the motion. MOTION CARRIED.

THURSDAY NIGHT FORUM FOLLOW UP

The Commissioners debriefed about the Thursday evening forum. It went well. Commissioner Hebert expressed that he was less than satisfied with responses from the Whatcom County Sheriff & Chief of the Bellingham Police Department. He wants the Commissioners to take a look at guidance from Washington Association of Sheriffs and Police Chiefs on profiling and consider sending a technical assistance advisory for wide distribution. Commissioner Hebert complimented Commissioner Baros Friedt for her work facilitating such a challenging public forum.

Commissioner Casson found the forum to be informative. He appreciates what the students had to say.

Action items from Thursday night;

1. Obtain public assistance statistics; what are the real numbers of minority individuals on public assistance. When received, WSHRC staff can post the information on the agency's website. Marc Brenman will do research and obtain relevant statistics.

2. Get a copy of the tape of the forum from TVW. Also put a link on WSHRC's website so the public can obtain a video tape from TVW as well as have access to the viewing schedule.

Reporter John Stark asked what the Commissioners learned that they didn't know about the minutemen. Commissioner comments included that Chris Simcox's statements were very smooth and beguiling; that's dangerous because people get sucked in easily. There was a good youth turnout at the forum. There is no major follow up planned by WSHRC on minutemen issue. WSHRC lacks jurisdiction on criminal issues. Commissioner Casson suggested following up with the ethnic commissions. Ethnic Commissions don't do forums like WSHRC does.

ACTION ITEM REVIEW

Tanya Calahan reviewed the action items from March 31, 2006 meeting. They are attached to these minutes.

Commissioner Cano-Lee asked about issues in Bethel School District. She asked whether the US Department of Education, Office of Civil Rights (OCR) attend can attend meetings with parents. OCR usually doesn't attend meetings; they are reactive and complaint driven. The Office of the Superintendent of Public Instruction could possibly assist.

The Commissioners discussed publicizing cases that are referred to the Office of Administrative Hearings (OAH). There haven't been any cases scheduled for some time. Marc Brenman announced that OAH has a new Chief Administrative Law Judge (ALJ), Roosevelt Currie. Mr. Brenman will meet with Mr. Currie regarding WSHRC's cases. The ALJ's at OAH mostly handle workers compensation and unemployment cases; not civil rights cases.

Mr. Brenman will report on his meeting with the new Chief ALJ in an upcoming Executive Director's Report.

(Audio tape one – side two)

CASE CLOSURES

Commissioner Baros Friedt shared that most of her case questions were answered but a couple of cases are still "sketchy."

Regarding Matthews v. Delancy; the statement that "we don't rent to African Americans" is troubling and overtly discriminatory. Respondent refused to rent to complainants girlfriend, who is African American. There was discussion about the legal definition of "harm" and if the complainant was harmed by respondent's actions against his girlfriend. Staff will take another look at the case. Mr. Brenman pulled it to take a fresh look at it to see if further evidence should be considered.

Commissioner Cano-Lee recused herself from voting on Mary Anderson v. Family Medical Commissioner. Commissioner Hebert made a motion to approve case closures with the

exception of *Matthews v. Delancy*. Commissioner Casson seconded the motion. MOTION CARRIED.

CHAIRPERSON'S REPORT

Commissioner Baros Friedt discussed the Executive Director Evaluation Protocol. The Commissioners present signed it. Marc Brenman will provide his input for the evaluation to the Commissioners by May 25, 2006 as required by the new protocol.

Tanya Calahan will distribute an electronic version of the Executive Director Annual Review Management Elements documents to the Commissioners. The Commissioners will provide their completed forms to Commissioner Baros Friedt by June 12, 2006. The final protocol does not contain language regarding contacting external stakeholders and soliciting input internally or externally as agreed upon at the March 31, 2006 meeting.

The evaluation period will run from March 2005 to present. The Commissioners will finalize the current evaluation at the end of June 2006.

MONTHLY CASE PRODUCTION REPORTS

Marc Brenman distributed various reports for case closures.

There was discussion about police and jail complaints. Assistant Attorney General Traci Friedl spoke about public accommodation issues relating to police departments. She is looking at whether police practices in the field would fall under public accommodation jurisdiction since the police are "mobile" under these circumstances. Jails aren't public accommodations because people are not there voluntarily.

(Audio tape two- side one)

Mr. Brenman commented about writing a dear colleague letter to Washington Association of Police Chiefs and Sheriffs about service animal issues because of lack of insight by the King County Sheriff's Department. King County Sheriff deputies wrongly advised Bank of America that they didn't have to let someone onto their premises with a service animal.

EXECUTIVE DIRECTOR'S REPORT

Marc Brenman has been in touch with the WA State Department of Labor & Industries (L&I) regarding the draft "Heat Exhaustion" rules. This issue is affecting a large number of Latinos. The rule is too broad & general. California has already gone through this debate. L&I did a study after an incident and didn't adopt recommendations from its own study. He will be discussing the matter with L&I staff during a conference call next week.

Commissioner Baros Friedt asked about status of Clark County project. The State School for the Deaf offered space to WSHRC. Dixie Shaw will go view the space in the near future. Staff is also looking at other space options for use while an investigator is working in Vancouver.

RECONSIDERATIONS

Michael Tucker v. Home Depot. Mr. Tucker asked for reconsideration on two cases. They both are on the agenda for consideration. The Commissioners considered case, 36ED-0774-04-5 first. Complainant Michael Tucker appeared by telephone. Lorraine Sanchez appeared on behalf of Respondent. Bruce Redding summarized both cases by telephone.

The complainant claimed that he was “done wrong” by respondent not allowing him to work the day shift.

(Audio tape two – side two)

However, the complainant did not ask for the day shift as an accommodation for his disability. Respondent reiterated that complainant did not ask for an accommodation. All employees work based on business needs. He was not entitled to receive the day shift. There is no seniority policy in place for shifts.

Commissioner Hebert asked about a \$1500 error made by the complainant. There was discussion about the date of the alleged incident. The evidence reflects that the respondent’s actions were justified. There were other reasons besides the disability to justify the adverse action against the complainant. Commissioner Hebert made a motion to deny the complainant’s petition for reconsideration. Commissioner Lee seconded the motion. MOTION CARRIED.

Michael Tucker v. Home Depot. The Commissioners considered the second case filed by Mr. Tucker, case number 36EZ-0449-04-5. The complainant was fired for leaving loading area doors open. He took and submitted pictures of the doors opened at other times. Respondent commented that they were consistent with firing other employees for similar offenses, but they have no record of others leaving the doors opened and unattended.

Commissioner Hebert made a motion to deny the complainant’s petition for reconsideration. Commissioner Cano-Lee seconded the motion. MOTION CARRIED.

Curt Watkins v. Peninsula Glen Apartments was set aside until the May 2006 meeting so information submitted by the complainant’s representative can be considered.

There being no further business, the meeting adjourned at 2:27 p.m.

Respectfully submitted,

Tanya Y. Calahan
Executive Assistant to the Commissioners